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Green practice groups blossoming amid evolving regulations, tax law

BY CYNTHIA BENT FINDLAY | FOR BUSINESS FIRST

Add Central Ohio lawyers to the list of those jumping onto the green bandwagon. Green practice groups are springing up that aim to help steer that bandwagon to success, say local attorneys.

Technological advances in energy production, regulatory changes surrounding air, water and energy supplies, tax incentives for conservation – all are factors affecting companies both in environmental fields and in more traditional forms of business.

As a result, area attorneys say they see increasing demand for specialized legal expertise to ride the wave of that change.

Environmental law has been around for decades, but green practice groups go far beyond expertise in water quality or hazardous waste treatment, they say.

“The green practice is like an overlay district map in the firm that brings into play attorneys from many groups. So they’re not just focused on real estate, say, but they are also cognizant of the fact that other people are doing things in areas such as energy or intellectual property that may be related to what you’re doing and what your client or prospective client is interested in,” says Steve Samuels, chairman of the environmental practice group at Schottenstein Zox & Dunn Co. LPA.

Samuels says the firm’s green practice group attorneys have valuable non-legal expertise, as well. Associate Lesley Avery, was the first LEED-certified attorney in Ohio.

Firm client Eastwood Environmental



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Schottenstein Zox & Dunn's Steve Samuels, chairman of the firm's environmental practice group, says attorneys from many different specialties work together to help solve clients' green issues.

Inc. provides a good example of how a green legal practice can benefit a project.

Eastwood, based in Huron, services small water-treatment plants and also hauls sewage sludge.

As it stands, residential septic tank waste is either dumped into city water treatment systems, many of which do not have the capacity to treat it, or onto approved farm fields where waste can sometimes leach into the water table; flying insects can also potentially spread disease from such raw waste.

The problem is not a small one. One million homes in Ohio use septic tanks and generate 2 billion gallons of sludge waste yearly.

Eastwood devised an innovative treatment method using bacteria with

an end product of only carbon dioxide and water. When company President Derrick Shinault looked to Schottenstein Zox & Dunn for help working with the EPA at the state and federal levels on permitting a new treatment plant, the firm’s green practice attorneys spotted a trouble area Shinault had not seen.

Shinault had not patented Eastwood’s technology, which would become public information once submitted to the EPA. The firm’s intellectual property arm was able to help Shinault win a U.S. patent, and now the company is in talks with several counties regarding building a plant. Shinault says he believes there is a potential market for 50 treatment plants in Ohio alone.

“They gave me very good advice. And it was a very difficult problem to explain to people who were not



L. Avery:
Schottenstein Zox
& Dunn Co. LPA

engineers, but they spoke my language. They brought out their people with background in biochemistry, they put it in legalese and got me through that process. I don't think I could have gotten to this point without them," Shinault says.

In another case, the firm's attorneys alerted the city of Dayton, already a client, of an Ohio law that took effect in 2008 pushing electric utilities to become more efficient and to encourage customers to use less energy.

Attorneys Chris Miller and Andre Porter then helped the city of Dayton negotiate a package with Dayton Power and Light for \$1.4 million in grants and research funds that will help the city kick off an energy efficiency effort aimed at lowering rates for the city, helping the utility meet energy efficiency standards and increasing system reliability for residents.

The agreement also specified that the grants and research funds would not come at the expense of the utility's other ratepayers.

Those regulations are one example of issues that law practice groups with a green emphasis are able to keep top of mind, Samuels says.

GREEN LAW TREND

Many of Central Ohio's largest law firms now have green practice groups. Porter Wright Morris & Arthur LLP formed its own in early 2008, says Rob Meyer, a partner and chairman of the firm's green practice group.

"It seemed it was the right time,

that the marketplace as a whole was embracing more sustainable business approaches and frankly many clients were as well," Meyer says.

"Big energy users are much more aware than ever before about not just reduction of cost associated with reduced energy use, but also the political realities and responsibilities of being a big user," says Schottenstein Zox & Dunn's Miller.

"It's helpful internally to get our professionals organized around a specific mission, and I think it helps us be more organized about how we approach the things we can do for clients," Meyer says.

Bricker and Eckler LLP's green practice group was informally in place at least a year before it was made official in 2007, says Maria Armstrong, partner and chairwoman of Bricker's Green Strategies Group.

Armstrong says many clients, especially nonprofits, aren't aware they can take advantage of tax incentives for energy saving and emissions reduction.

Ameresco, a national energy solutions contractor based in Massachusetts, says having Bricker & Eckler on the job helped it negotiate the local regulations and tax incentives in a way they couldn't have done alone – even though they're environmental experts.

Ameresco is in the middle of a \$7.5 million renovation of the Franklin County Courthouse that will produce just under \$1 million annually in savings for the county, says Jeff Metcalf,

Ameresco's regional director for Ohio.

"They have in-depth knowledge of Ohio and legislative issues going on, like renewable energy portfolio standards or the ability to create taxing districts that will help fund solar energy projects, they're on the fore of all of that," Metcalf says.

"Ohio is being very progressive. If you look around the country at who is trying to make it conducive for businesses in that space to get working and fund it, I think Ohio is doing a good job," he said.

Porter Wright's Meyer agrees the regional green market is young but growing.

"It's sort of small and energetic at this point. Geographically, I think there's quite a bit going on," Meyer says.

Energy efficiency regulation by public utility commissions is the area Armstrong says she sees as the fastest evolving issue for clients, and Samuels says he thinks global warming and greenhouse gas emissions will drive policy changes for decades to come.

"My sense of the future is that this is more than a passing fad," Samuels says. "The environment will increasingly become a focus of regulation and business practices. So I think that most full-service law firms will find it advantageous to set themselves up in fashion where they will be able to help clients to stay in tune with green developments."

Cynthia Bent Findlay is a freelance writer.